

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**RAYMOND L. HAMLETT,**

**Plaintiff,**

**v.**

**No. CIV-15-0725 RB/LAM**

**NANCY A. BERRYHILL, Acting Commissioner  
of the Social Security Administration,**

**Defendant.**

**ORDER GRANTING UNOPPOSED MOTION FOR ATTORNEY FEES  
UNDER THE EQUAL ACCESS TO JUSTICE ACT**

**THIS MATTER** is before the Court on Plaintiff's *Motion for Attorney Fees Pursuant to the Equal Access to Justice Act, With Memorandum in Support (Doc. 31)*, filed on February 20, 2017, wherein Plaintiff asks for an award of **\$5,668.64** in attorney fees. No response to the motion has been filed, and the time for doing so has passed, which constitutes consent to grant the motion. *See* D. N.M. LR-Civ. 7.1(b) ("The failure of a party to file and serve a response in opposition to a motion within the time prescribed for doing so constitutes consent to grant the motion."). Having considered the motion, the record in this case, and relevant law, the Court **FINDS** that the motion shall be **GRANTED**.

**IT IS THEREFORE ORDERED** that Plaintiff's *Motion for Attorney Fees Pursuant to the Equal Access to Justice Act, With Memorandum in Support (Doc. 31)* is **GRANTED**, and Plaintiff is authorized to receive **\$5,668.64** in attorney fees for payment to Plaintiff's attorney for services before this Court, as permitted by the Equal Access to Justice Act, 28 U.S.C. § 2412, and in accordance with *Manning v. Astrue*, 510 F.3d 1246, 1255 (10th Cir. 2007).

**IT IS FURTHER ORDERED** that, if Plaintiff's counsel is ultimately granted attorney fees pursuant to 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's attorney shall refund the smaller award to Plaintiff pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 596 n.4 (2010) (explaining that, if a claimant's counsel is ultimately granted attorney fees under § 406(b) out of the claimant's benefit award, the claimant's attorney must refund to the claimant the amount of the smaller fee).

**IT IS SO ORDERED.**

  
**LOURDES A. MARTÍNEZ**  
**UNITED STATES MAGISTRATE JUDGE**